

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:

IMMUNE PHARMACEUTICALS, INC., *et al.*,¹

Debtor.

Chapter 11

Case No. 19-13273 (VFP)

(Jointly Administered)

Hearing Date: July 2, 2019 at 10:00 a.m. ET

Objection Deadline: June 25, 2019 at 4:00 p.m. ET

**CORRECTIVE SUPPLEMENT TO MOTION OF DISCOVER
GROWTH FUND, LLC TO CONVERT PURSUANT TO 11 U.S.C. § 1112(b)**

Discover Growth Fund, LLC (“**Discover**”), the senior secured lender to the above-captioned debtors and debtors in possession (collectively, the “Debtors”) in these chapter 11 bankruptcy cases (collectively, the “**Chapter 11 Cases**”), by and through its undersigned

¹ The “**Debtor**” in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Immune Pharmaceutical, Inc. (1431); Immune Pharmaceuticals, Ltd.; Cytovia, Inc. (7805); Immune Oncology Pharmaceuticals, Inc.; Maxim Pharmaceuticals, Inc. (9983); and Immune Pharmaceuticals USA Corp. (9630). The lead debtor is Immune Pharmaceuticals, Inc. (“**IPI**”).

counsel, hereby submits this corrective supplement to its motion (“**Motion**”) to convert this case to Chapter 7 pursuant to 11 U.S.C. § 1112(b), respectfully represents the following:

PROCEDURAL BACKGROUND

1. Discover filed the Motion on June 5, 2019 [Doc 184].
2. After filing the Motion, Discover became aware of an error in the Motion concerning the timing of more than \$1.5 million in payments by Debtor Immune Pharmaceuticals, Inc. (“**IPI**”) insiders, former insiders and subsidiaries while trade creditors went unpaid. Discover corrects the Motion as set forth below.
3. Paragraph 39 of the Motion is deleted and substituted in its entirety by the following text:

IPI has also demonstrated a tendency to misuse whatever cash it might have. During the year immediately preceding the Petition Date, IPI paid \$1,573,923.80 to insiders, former insiders and subsidiaries. Doc 62, pp. 47-48. Indeed, IPI subsidiary Cytovia International Sarl received a payment from IPI just four days before the Petition Date (*Id.*, p. 48), and IPI subsidiary Immune Pharmaceuticals, Ltd. received a payment of \$699,620.80 on December 11, 2018. *Id.*, p. 47. In total, IPI acknowledges making twelve payments to insiders former insiders and subsidiaries (including the \$699,620.80 payment to Immune Pharmaceuticals, Ltd) during the fourth quarter of 2018 and the first two months of 2019. *Id.*, pp. 47-48. However, while parties related to IPI received payment, the providers of clinical trials and related services—the backbone of IPI’s business—went unpaid. *Id.*, pp. 19-39. IPI’s payment of more than \$1.5 million to related parties during the year immediately preceding its bankruptcy filing despite having not generated revenues for more than two years raises the question of the source of the funds utilized for those payments. For the payments made during the fourth quarter of 2018 and the first two months of 2019, the answer can only be that IPI utilized the funds Discover advanced pursuant to the Debt Documents to make those payments

4. The third sentence of paragraph 41 of the Motion is deleted in its entirety and replaced by the following text:

Apparently, IPI has dissipated a significant portion of the advances it received from Discover primarily on payments to related parties.

WHEREFORE, Discover respectfully requests that this Court enter an order converting the Chapter 11 Cases to cases under Chapter 7 and directing the appointment of a Chapter 7 Trustee to liquidate the Debtors' estates for the benefit of creditors.

Dated: June 20, 2019
Newark, New Jersey

GIBBONS P.C.

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